



Economic Impact Analysis Virginia Department of Planning and Budget

18 VAC 135-50 – Fair Housing Regulations
Department of Professional and Occupational Regulation
April 12, 2007

Summary of the Proposed Amendments to Regulation

The Real Estate Board and the Fair Housing Board (Boards) propose to add 1) “Fair Housing Board” to the definition of “Board,” 2) language specifically referencing the Fair Housing Board and describing the role of the Real Estate and Fair Housing Boards in the administration and enforcement of Virginia’s Fair Housing Law, 3) language referencing the right of a member of a protected class to enjoy a dwelling free from interference, coercion or intimidation based on being a member of a protected class, and 4) other clarifying language.

Result of Analysis

The benefits likely exceed the costs for all proposed changes.

Estimated Economic Impact

Chapter 575 of the 2003 Acts of the assembly created the Fair Housing Board. Prior to that, Virginia’s Fair Housing Law was administered and enforced solely by the Real Estate Board. Now both the Real Estate and Fair Housing Boards administer and enforce Virginia’s Fair Housing Law. The current regulations define “Board” as “the Real Estate Board.” Under the proposed regulations the definition of “Board” would be “the Real Estate Board or the Fair Housing Board.” In practice this change is a clarification and will not have significant impact.

The Boards also propose to add language concerning the responsibilities of the Fair Housing Board. The proposed language is essentially repetitious of language in the Code of Virginia; thus its addition will have little impact. The inclusion may be beneficial though for those individuals who read the regulations, but not the relevant sections of the Code.

The Boards propose to add language regarding the interpretation of conduct that is unlawful under the Fair Housing Law, specifically interfering with a person's enjoyment of their dwelling based on race, color, religion, sex, handicap, familial status, elderliness, or national origin. According to the Department of Professional and Occupational Regulation (Department), this language was erroneously deleted during the last regulatory change in 2003 when several provisions that duplicated statutes were removed. These provisions do not duplicate Virginia statute and are necessary to enforce the law and to maintain Virginia's substantial equivalency status with the Department of Housing and Urban Development. Without this language change, violators could technically only be prosecuted in federal court. According to the Department there have been no cases where the absence of this language has been problematic, but such cases could occur in the future. Adding this language back to the regulations likely produces a net benefit in that unlawful interference with a person's enjoyment of their dwelling based on race, color, religion, sex, handicap, familial status, elderliness, or national origin can more quickly be dealt with when state courts are available as well as federal court.

Finally, the current regulations state that "Based on the authority delegated to the fair housing administrator by the Real Estate Board, the administrator may investigate housing practices to determine whether a complaint should be filed." The Boards propose to strike out the words "Real Estate." As mentioned above, under the proposed regulations the definition of "Board" would be "the Real Estate Board or the Fair Housing Board." Thus, the proposed elimination of the words "Real Estate" would make clear that the administrator may investigate housing practices based on authority delegated by either the Real Estate Board or the Fair Housing Board. Under current law this does not give the administrator any additional authority in practice. Nevertheless, the change is beneficial for clarity.

Businesses and Entities Affected

The fair housing regulations potentially affect all consumers of housing in Virginia, i.e., all 7.6 million citizens of the Commonwealth, as well as business and individuals involved in the provision of housing, i.e., landlords, home sellers, realtors, banks, mortgage brokers, insurance companies, etc.

Localities Particularly Affected

The proposed amendments do not disproportionately affect particular localities.

Projected Impact on Employment

The proposed changes will not significantly affect employment.

Effects on the Use and Value of Private Property

The proposal to add back language regarding the interpretation of conduct that is unlawful under the Fair Housing Law may moderately reduce the chance that housing is used in a discriminatory manner.

Small Businesses: Costs and Other Effects

The proposed amendments do not significantly affect costs for small businesses.

Small Businesses: Alternative Method that Minimizes Adverse Impact

The proposed amendments do not produce adverse impact for small businesses.

Legal Mandate

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with Section 2.2-4007.H of the Administrative Process Act and Executive Order Number 36 (06). Section 2.2-4007.H requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. Further, if the proposed regulation has adverse effect on small businesses, Section 2.2-4007.H requires that such economic impact analyses include (i) an identification and estimate of the number of small businesses subject to the regulation; (ii) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the regulation, including the type of professional skills necessary for preparing required reports and other documents; (iii) a statement of the probable effect of the regulation on affected small businesses; and (iv) a description of any less intrusive or less costly alternative methods of achieving the purpose of the regulation. The analysis presented above represents DPB's best estimate of these economic impacts.